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Congress of the United States

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COMMITTEE ON ENERGY AND COMMERCE

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January 6, 2010

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The Honorable Charles F. Bolden, Jr.
Administrator
NASA
NASA Headquarters
300 E Street, S.W.
Washington, DC 20546

Dear Administrator Bolden:

The public posting in mid-November 2009 of thousands of climate science-related emails among an influential group of researchers, including U.S. federal government employees and contractors, has been widely reported in the news media. The emails raise a number of serious questions concerning the transparency and integrity of U.S.-supported climate research going back more than ten years and relate directly to Committee on Energy and Commerce investigations into data sharing, transparency, and the reliability of climate change assessments.

We note that some researchers with the National Aeronautics and Space Administration (NASA) are referenced in the emails. Some of the emails raise concerns about researchers' responsiveness to Freedom of Information Act (FOIA) requests. News reports following these emails indicate NASA researchers and research were directly subject to FOIA requests, and raise questions about NASA's compliance with FOIA in response to such requests. (See "Global Warming Controversy Reaches NASA Climate Data," *The Washington Times*, December 3, 2009, attached.) The emails also raise questions concerning the integrity of some of federally-funded research at issue in the emails and the researchers' adherence to federal data sharing guidelines, policy, and oversight.

Accordingly, we write to seek records and information relating to NASA's compliance with FOIA obligations as well as agency and researcher adherence to federal data-sharing policies. We request a full response to these questions and requests no later than January 15, 2010. If you are unable to respond in full by that deadline, please provide a written response no

later than two weeks from the date of this letter, providing any answers available at that time, and detailing what steps you will take to answer the questions in full.

1. Explain and provide copies of NASA FOIA procedures for collecting requested FOIA information, ensuring the information is complete and responsive, and for closing out the request.
2. We understand that one or more FOIA requests have been submitted to NASA by the Competitive Enterprise Institute (CEI), as referenced in the attached article, relating to climate change research, data, modeling or related matters.
 - a. What procedures were followed in responding to these requests?
 - b. Please provide copies of any FOIA requests submitted to NASA by CEI, and provide copies of all documents and records provided to the requester in response to such FOIA requests.
 - c. If any FOIA-requested documents or records were withheld, (i) identify what was withheld and the legal basis under FOIA for withholding; and (ii) provide those documents or information.
 - d. Please provide all documents, including but not limited to emails, conference call logs, and calendar entries, relating to the above FOIA requests.
3. Please provide copies of any additional FOIA requests that have been submitted to NASA relating to modeled and observed temperature trends relating to climate change assessments, and provide copies of all documents and records provided in response to such FOIA and/or follow-up requests.
4. Identify and provide copies of NASA's data sharing policies and procedures to ensure compliance with those policies.
 - a. Describe NASA's oversight of data sharing and identify officials by name and title responsible for adherence to those policies.
5. To the extent that NASA provides grants and funding for climate change science, describe NASA's climate science grant funding procedures and oversight of such funding.
 - a. What NASA policies and data sharing obligations attach to this funding?
 - b. Please provide a list of such grants, including the title of the project, name of the institutional grantee, the name of the principal investigator, length of grant, amount of funds, and start-and-end dates for the grant.

6. What has NASA's response been to the recommendations in the September 2007 Government Accountability Office report entitled "Climate Change Research: Agencies Have Data-Sharing Policies but Could Do More to Enhance the Availability of Data From Federally Funded Research"?

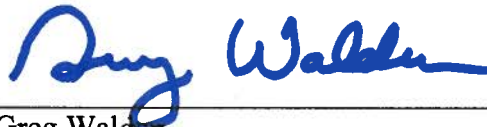
If NASA withholds any documents or information in response to this letter, please provide a Vaughn Index or log of the withheld items. The index should list the applicable question number, a description of the withheld item (including date of the item), the nature of the privilege or legal basis for the withholding, and a legal citation for the withholding claim.

Should you have any questions, please have your staff contact Mr. Peter Spencer of the Minority Committee Staff at (202) 225-3641.

Sincerely,



Joe Barton
Ranking Member



Greg Walden
Ranking Member
Subcommittee on Oversight and Investigations

cc: The Honorable Henry A. Waxman, Chairman

The Honorable Bart Stupak, Chairman
Subcommittee on Oversight and Investigations

Enclosure

The Washington Times Close Print

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Global warming controversy reaches NASA climate data

Stephen Dinan

The fight over climate science is about to cross the Atlantic with a U.S. researcher poised to sue NASA, demanding the release of the same kind of information that landed a leading British center in hot water over charges that it skewed its data.

Christopher C. Horner, a senior fellow at the Competitive Enterprise Institute, said NASA has refused for two years to provide information under the Freedom of Information Act that would show how the agency has shaped its climate data and explain why the agency has repeatedly had to correct its data dating as far back as the 1930s.

"I assume that what is there is highly damaging," Mr. Horner said. "These guys are quite clearly bound and determined not to reveal their internal discussions about this."

The numbers matter. Under pressure in 2007, NASA recalculated its data and found that 1934, not 1998, was the hottest year in its records for the contiguous 48 states. NASA later changed its data again, and now 1998 and 2006 are tied for the hottest years, with 1934 listed as slightly cooler.

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Mr. Horner, a noted skeptic of global warming and author of "The Politically Incorrect Guide to Global Warming and Environmentalism," wants a look at the data and the discussions that

went into those changes. He said he's given the agency until the end of the year to comply or else he'll sue to compel the information's release.

Mark Hess, public affairs director for the Goddard Space Flight Center, which runs the Goddard Institute for Space Studies (GISS) laboratory, said officials are working on Mr. Horner's request, though he couldn't say why they have taken so long.

"We're collecting the information and will respond with all the responsive relevant information to all of his requests," Mr. Hess said. "It's just a process you have to go through where you have to collect data that's responsive."

Mr. Horner's fight mirrors one that has sprung up in Britain since the release of thousands of e-mails from the University of East Anglia's Climatic Research Unit, which appear to show researchers shaving their data to conform to their expectations. They also note efforts to try to drive global warming skeptics out of the conversation.

The center's chief has stepped down pending an investigation into the e-mails.

The center has had to acknowledge in response to a Freedom of Information request under British law that it tossed out much of the raw data that it used to draw up the temperature models that have underpinned much of the science behind the global warming theory.

Mr. Horner suspects the same sort of data shaving has happened at GISS, a leading climate change research center. Mr. Hess said he was unfamiliar with the British controversy and couldn't say whether NASA was susceptible to the same challenges to its data.

The White House has dismissed the British e-mails as irrelevant.

"Several thousand scientists have come to the conclusion that climate change is happening. I don't think that's anything that is, quite frankly, among most people, in dispute anymore," press secretary Robert Gibbs told reporters this week.

But Republicans on Capitol Hill say the revelations deserve a congressional investigation. Republican leaders also sent a letter to Environmental Protection Agency Administrator Lisa P. Jackson on Wednesday telling her that she should withdraw a series of EPA rules until the climate change science can be better substantiated.

For now, climate scientists are rallying around the British researchers.

Michael Mann, a scientist at Penn State University who is under fire for his involvement in the British e-mail exchanges, said the e-mails' release was timed to interfere with next week's

U.N. climate summit in Copenhagen. President Obama is planning to attend.

"They've taken scientists' words and phrases and quoted them out of context, completely misrepresenting what they were saying," Mr. Mann told AccuWeather.com in an interview, calling it a "manufactured controversy."

NASA's GISS was forced to update its data in 2007 after questions were raised by Steve McIntyre, who runs ClimateAudit.org.

GISS had initially listed the warmest years as 1998, 1934, 2006, 1921 and 1931, respectively. After Mr. McIntyre's questions, GISS rejiggered the list to show 1934 as the warmest, followed by 1998, 1921, 2006 and then 1931. Since then, the list has been rewritten again so it now runs as 1998, 2006, 1934, 1921 and 1999.

The institute blamed "a minor data processing error" for the changes but said it doesn't make much difference, since the top three years remain in a "statistical tie" either way.

Mr. Horner said he's seeking the data itself, but he also wants to see the chain of e-mails from scientists discussing the changes.

The Freedom of Information Act requires agencies to respond to requests within 20 days. Mr. Horner says he's never received an official acknowledgment of his three separate FOIA requests, but has received e-mails showing that the agency is aware of them.

He said he has provided NASA with a notice of intent to sue under FOIA but that he also hopes members of Congress get involved and demand the release of information.

NASA and CRU data are considered the backbone of much of the science that suggests the Earth is warming as a result of man-made greenhouse gas emissions. NASA argues that its data suggest this decade has been the warmest on record.

On the other hand, data from the University of Alabama-Huntsville suggest temperatures have been relatively flat for most of this decade.

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